

FILED

JUN 01 2006

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

NATIONWIDE MUTAL INSURANCE
COMPANY,

Plaintiff-counter-defendant -
Appellee,

v.

DAVID KERSH,

Defendant-counter-claimant -
Appellant.

No. 05-16714

D.C. No. CV-04-00726-DAE/KSC

MEMORANDUM*

Appeal from the United States District Court
for the District of Hawaii
David A. Ezra, District Judge, Presiding

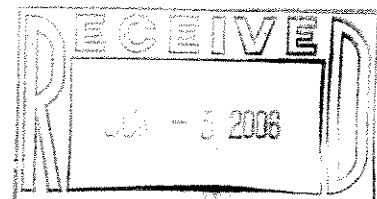
Submitted May 24, 2006 **

Before: PREGERSON, TALLMAN and CALLAHAN, Circuit Judges.

Upon review of the record and the parties' responses to the March 16, 2006
order to show cause, this court hereby summarily affirms the district court's order

* This disposition is not appropriate for publication and may not be
cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

** This panel unanimously finds this case suitable for decision without
oral argument. See Fed. R. App. P. 34(a)(2).



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remanding the action for lack of federal subject matter jurisdiction. *See United States v. Hooton*, 693 F.2d 857 (9th Cir. 1982) (per curiam) (summary affirmance appropriate where result is clear from face of record). All pending motions are denied.

AFFIRMED.